

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:18-CR-151-D

UNITED STATES OF AMERICA,)
)
 v.)
)
 TERRENCE TERRELL PULLIAM,)
)
 Defendant.)

ORDER

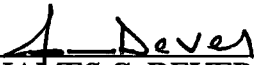
On April 24, 2018, a grand jury returned a one-count indictment that charged Terrence Terrell Pulliam (“Pulliam” or “defendant”) with possessing a firearm and ammunition after having been previously convicted of a crime punishable by a term of imprisonment exceeding one year in violation of 18 U.S.C. §§ 922(g)(1), 924 [D.E. 1]. On July 24, 2018, Pulliam moved to dismiss the indictment, arguing that federal prosecution violates the Fifth Amendment’s Double Jeopardy Clause because North Carolina has charged, convicted, and sentenced Pulliam for the same conduct [D.E. 22]; see [D.E. 25-1]. Pulliam concedes that his argument “is contrary to longstanding and binding precedent.” [D.E. 22] 1. On August 7, 2018, the government responded in opposition [D.E. 25].

Pulliam’s motion lacks merit. North Carolina and the United States, as separate sovereigns, may constitutionally punish Pulliam for identical conduct. See Puerto Rico v. Sanchez Valle, 136 S. Ct. 1863, 1870–71 (2016); Heath v. Alabama, 474 U.S. 82, 88–89 (1985); Abbate v. United States, 359 U.S. 187, 189–96 (1959); United States v. Lanza, 260 U.S. 377, 382–85 (1922); United States v. Alvarado, 440 F.3d 191, 196–98 (4th Cir. 2006).

In sum, the court DENIES defendant’s motion to dismiss [D.E. 22]. The court also DENIES Pulliam’s request to hold the motion in abeyance pending the Supreme Court’s decision in Gamble v. United States, 134 S. Ct. 2707 (2018) (granting petition for writ of certiorari to address continuing

viability of separate sovereigns doctrine). The legal issue is preserved for appellate review. See
Menna v. New York, 423 U.S. 61, 62–63 (1975) (per curiam).

SO ORDERED. This 25 day of October 2018.



JAMES C. DEVER III
United States District Judge